



*United States Constitution*  
APPENDIX A

AMENDMENT XXI

SEC. 2. The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

APPENDIX B

The Federal Alcohol Administration Act, 49 Stat. 977 (27 U. S. C. 201 et seq.) provides in part as follows:

SEC. 3. \* \* \* (a) It shall be unlawful, except pursuant to a basic permit issued under this Act by the Administrator—

(1) to engage in the business of importing into the United States distilled spirits, wine, or malt beverages; or

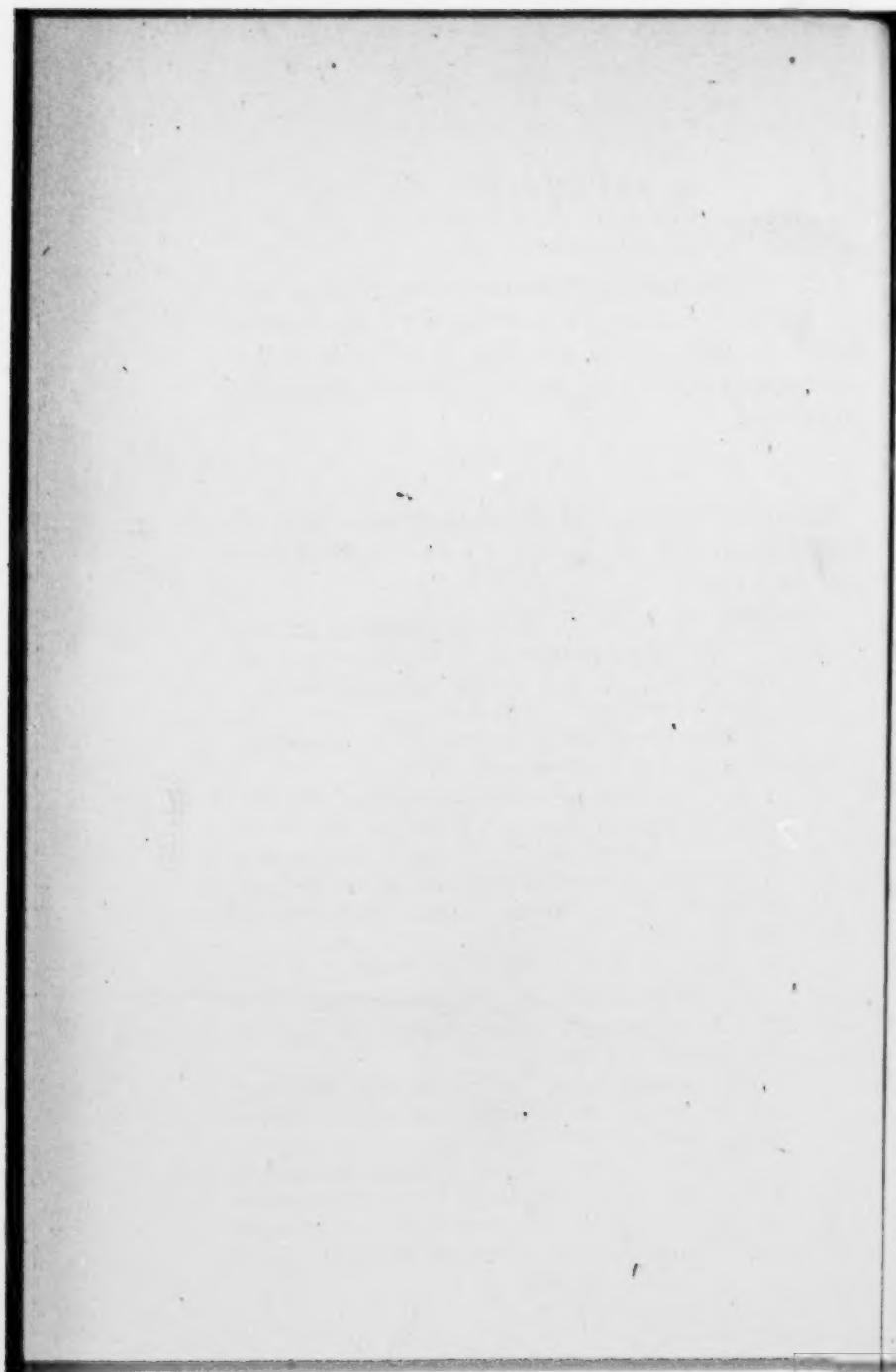
(2) for any person so engaged to sell, offer or deliver for sale, contract to sell, or ship, in interstate or foreign commerce, directly or indirectly or through an affiliate, distilled spirits, wine, or malt beverages so imported.

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(c) It shall be unlawful, except pursuant to a basic permit issued under this Act by the Administrator—

(1) to engage in the business of purchasing for resale at wholesale distilled spirits, wine, or malt beverages; or

(2) for any person so engaged to receive or to sell, offer or deliver for sale, contract to sell, or ship, in interstate or foreign commerce, directly or indirectly or through



an affiliate, distilled spirits, wine, or malt beverages so purchased.

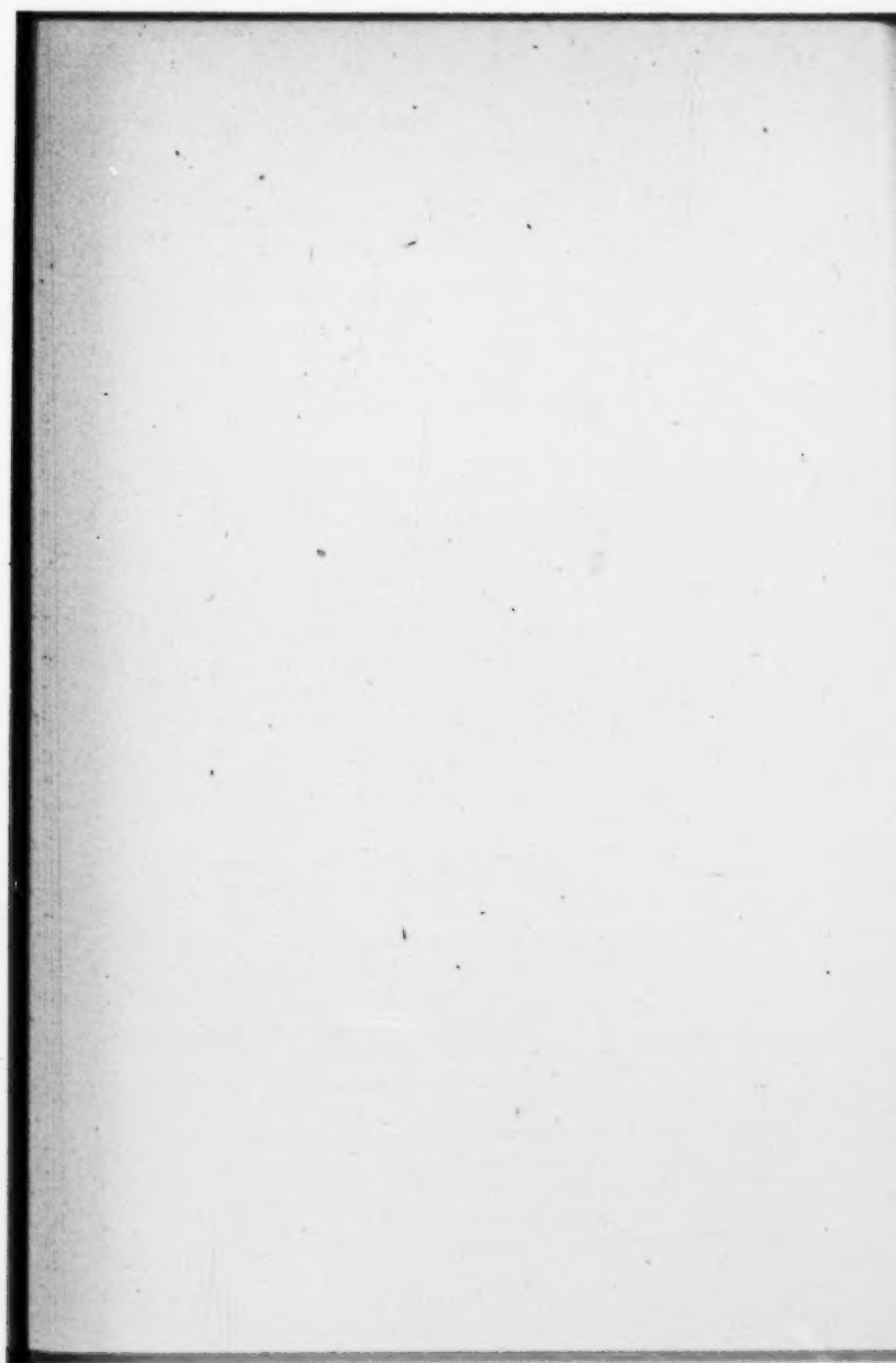
SEC. 4. (a) The following persons shall, on application therefor, be entitled to a basic permit:

(1) Any person who, on May 25, 1935, held a basic permit as distiller, rectifier, wine producer, or importer issued by an agency of the Federal Government.

(2) Any other person unless the Administrator finds

(A) that such person (or in case of a corporation, any of its officers, directors, or principal stockholders) has, within five years prior to date of application, been convicted of a felony under Federal or State law or has, within three years prior to date of application, been convicted of a misdemeanor under any Federal law relating to liquor, including the taxation thereof; or (B) that such person is, by reason of his business experience financial standing, or trade connections, not likely to commence operations within a reasonable period or to maintain such operations in conformity with Federal law; or (C) that the operations proposed to be conducted by such person are in violation of the law of the State in which they are to be conducted.

(b) If upon examination of any application for a basic permit the Administrator has reason to believe that the applicant is not entitled to such permit, he shall notify the applicant thereof and, upon request by the applicant, afford him due notice and opportunity for hearing on the application. If the Administrator, after affording such notice and opportunity for hearing, finds that the applicant is not entitled to a basic permit hereunder, he shall by order deny



the application stating the findings which are the basis for his order.

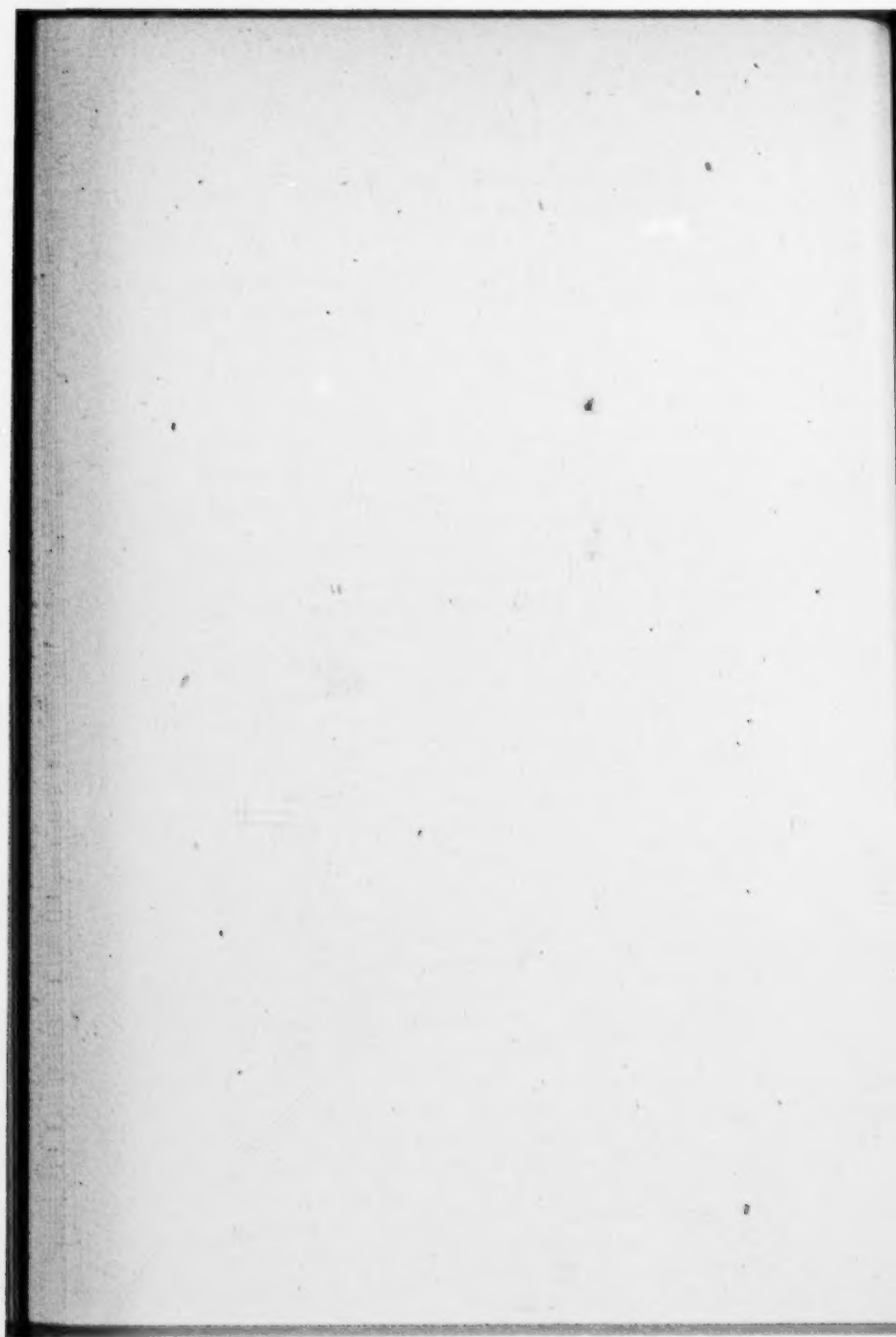
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(d) A basic permit shall be conditioned upon compliance with the requirements of section 5 (relating to unfair competition and unlawful practices) and of section 6 (relating to bulk sales and bottling), with the twenty-first amendment and laws relating to the enforcement thereof, and with all other Federal laws relating to distilled spirits, wine, and malt beverages, including taxes with respect thereto.

(e) A basic permit shall by order of the Administrator, after due notice and opportunity for hearing to the permittee, (1) be revoked, or suspended for such period as the Administrator deems appropriate, if the Administrator finds that the permittee has willfully violated any of the conditions thereof, provided that for a first violation of the conditions thereof the permit shall be subject to suspension only; or (2) be revoked if the Administrator finds that the permittee has not engaged in the operations authorized by the permit for a period of more than two years; or (3) be annulled if the Administrator finds that the permit was procured through fraud, or misrepresentation, or concealment of material fact. The order shall state the findings which are the basis for the order.

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(g) A basic permit shall continue in effect until suspended, revoked, or annulled as provided herein, or voluntarily surrendered; except that (1) if lease, sold or otherwise voluntarily transferred, the permit shall be automatically terminated thereupon, and (2) if transferred by operation



of law or if actual or legal control of the permittee is acquired, directly or indirectly, whether by stock-ownership or in any other manner, by any person, then such permit shall be automatically terminated at the expiration of thirty days thereafter: *Provided*, That if within such thirty-day period application for a new basic permit is made by the transferee or permittee, respectively, then the outstanding basic permit shall continue in effect until such application is finally acted on by the Administrator.

(h) An appeal may be taken by the permittee or applicant for a permit from any order of the Administrator denying an application for, or suspending, revoking, or annulling, a basic permit. Such appeal shall be taken by filing, in the circuit court of appeals of the United States within any circuit wherein such person resides or has his principal place of business, or in the United States Court of Appeals for the District of Columbia, within sixty days after the entry of such order, a written petition praying that the order of the Administrator be modified or set aside in whole or in part. A copy of such petition shall be forthwith served upon the Administrator, or upon any officer designated by him for that purpose, and thereupon the Administrator shall certify and file in the court a transcript of the record upon which the order complained of was entered. Upon the filing of such transcript, such court shall have exclusive jurisdiction to affirm, modify, or set aside such order, in whole or in part. No objection to the order of the Administrator shall be considered by the court unless such objection shall have been urged before the Administrator or unless there were reasonable grounds for failure

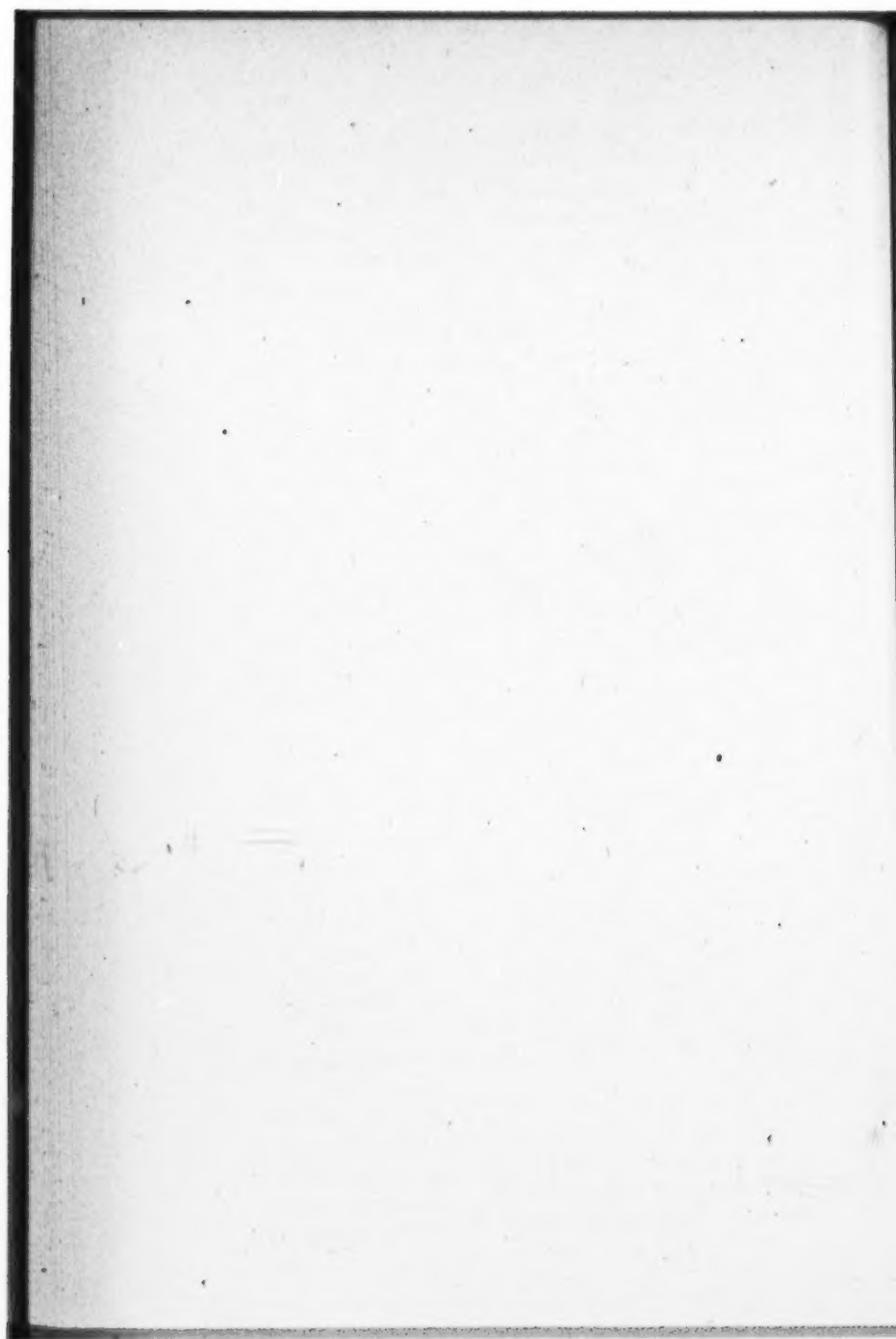




so to do. The finding of the Administrator as to the facts, if supported by substantial evidence, shall be conclusive. If any party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the proceeding before the Administrator, the court may order such additional evidence to be taken before the Administrator and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The Administrator may modify his findings as to the facts by reason of the additional evidence so taken, and he shall file with the court such modified or new findings, which, if supported by substantial evidence, shall be conclusive, and his recommendation, if any, for the modification or setting aside of the original order. The judgment and decree of the court affirming, modifying, or setting aside, in whole or in part, any such order of the Administrator shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in sections 239 and 240 of the Judicial Code, as amended (U. S. C., title 28, secs. 346 and 347). The commencement of proceedings under this subsection shall unless specifically ordered by the court to the contrary operate as a stay of the Administrator's order.

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SEC. 5. It shall be unlawful for any person engaged in business as a distiller, brewer, rectifier, blender, or other producer, or as an importer or wholesaler, of



distilled spirits, wine, or malt beverages, or as a bottler, or warehouseman and bottler, of distilled spirits, directly or indirectly or through an affiliate:

(a) *Exclusive outlet*: To require, by agreement or otherwise, that any retailer engaged in the sale of distilled spirits, wine, or malt beverages, purchase any such products from such person to the exclusion in whole or in part of distilled spirits, wine, or malt beverages sold or offered for sale by other persons in interstate or foreign commerce, if such requirement is made in the course of interstate or foreign commerce, or if such person engages in such practice to such an extent as substantially to restrain or prevent transactions in interstate or foreign commerce in any such products, or if the direct effect of such requirement is to prevent, deter, hinder, or restrict other persons from selling or offering for sale any such products to such retailer in interstate or foreign commerce; or

(b) "Tied house": To induce through any of the following means, any retailer, engaged in the sale of distilled spirits, wine or malt beverages, to purchase any such products from such person to the exclusion in whole or in part of distilled spirits, wine, or malt beverages sold or offered for sale by other persons in interstate or foreign commerce, if such inducement is made in the course of interstate or foreign commerce, or if such person engages in the practice of using such means, or any of them, to such an extent as substantially to restrain or prevent transactions in interstate or foreign commerce in any such products, or if the direct effect of such inducement is to prevent, deter, hinder, or restrict other persons from selling or offering for sale any such



products to such retailer in interstate or foreign commerce: (1) By acquiring or holding (after the expiration of any existing license) any interest in any license with respect to the premises of the retailer; or (2) by acquiring any interest in real or personal property owned, occupied, or used by the retailer in the conduct of his business; or (3) by furnishing, giving, renting, lending, or selling to the retailer, any equipment, fixtures, signs, supplies, money, services, or other thing of value, subject to such exceptions as the Administrator shall by regulation prescribe, having due regard for public health, the quantity and value of articles involved, established trade customs not contrary to the public interest and the purposes of this subsection; or (4) by paying or crediting the retailer for any advertising, display, or distribution service; or (5) by guaranteeing any loan or the repayment of any financial obligation of the retailer; or (6) by extending to the retailer credit for a period in excess of the credit period usual and customary to the industry for the particular class of transactions, as ascertained by the Administrator and prescribed by regulations by him; or (7) by requiring the retailer to take and dispose of a certain quota of any of such products; or

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## APPENDIX C

NEW MEXICO STATUTES OF 1941

ANNOTATED, VOLUME 5

61-908. Unfair competition—Exclusive outlet—  
Tied house—Consignment sales.—It shall be un-

lawful for any importer, distiller, brewer, rectifier, winer, nonresident licensee, or any kind or class of wholesale licensee, directly or indirectly, or through an affiliate:

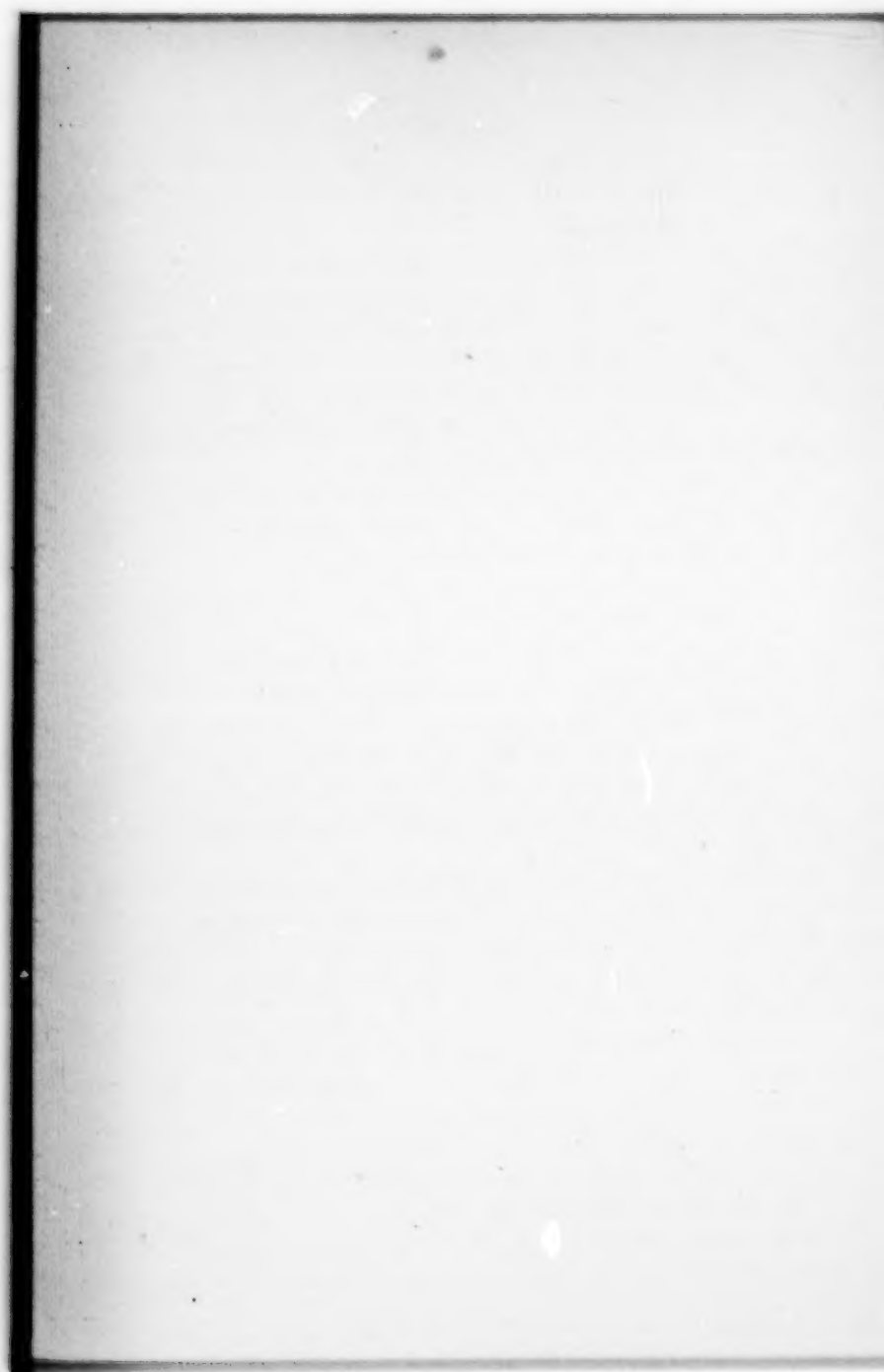
(a) Exclusive outlet: To require by agreement or otherwise that any wholesale, retail, dispensary or club licensee engaged in the sale of any alcoholic liquor in the state of New Mexico, purchase any such products from such person to the exclusion in whole or in part of alcoholic liquors sold or offered for sale by other persons; or

(b) Tied house: To induce through any of the following means, any wholesale liquor dealer, retail liquor dealer, dispenser or club engaged in the sale of any kind or class of alcoholic liquors to purchase any such products from such person to the exclusion in whole or in part of alcoholic liquors sold or offered for sale by other persons:

(1) By acquiring or holding (after the expiration of any existing license) any interest in any license with respect to the premises of the wholesale liquor dealer, retail liquor dealer, dispenser or club; or

(2) By acquiring any interest in any real or personal property owned, occupied or used by any wholesale liquor dealer, retail liquor dealer, dispenser or club in the conduct of the buying wholesaler's, retailer's, dispenser's or club's liquor business, subject to such exceptions as the chief of division of liquor control shall prescribe, having due regard to the free flow of commerce, the purpose of this subsection and established trade customs not contrary to the public interest; or

(3) By furnishing, giving, renting, lending or selling to any wholesale liquor dealer, retail liquor





dealer, dispenser or club any equipment, fixtures, signs, supplies, money, services, or other thing of value, subject to such exceptions as the chief of division of liquor control shall by regulation prescribe, having due regard for public health and welfare, the quantity and value of the articles involved and established trade customs not contrary to the public interest and the purposes of this subsection; or

(4) By paying or crediting the wholesale liquor dealer, retail liquor dealer, dispenser or club for any advertising, display or distribution services; or

(5) By extending credit to any wholesale liquor dealer, retail liquor dealer, dispenser or club in any amount to aid or allow such person to commence business or to secure any part of a stock of merchandise with which to commence business in the first instance; or

(6) By requiring any wholesale liquor dealer, retail liquor dealer, dispenser or club to take and dispose of a certain quota or combination of alcoholic liquor products; or

(7) Commercial bribery: To induce by or through any of the following means any wholesale liquor dealer, retail liquor dealer, dispenser or club to purchase any alcoholic liquor products from such person to the exclusion in whole or in part of any alcoholic liquors sold or offered for sale by other persons:

(1) By commercial bribery; or

(2) By offering or giving any bonus, premium or compensation to any officer, employee, agent or representative of any wholesale liquor dealer, retail liquor dealer, dispenser or club; or



(c) Consignment sales: To sell, offer for sale or contract to sell any retail liquor dealer, dispenser or club any alcoholic liquors of any kind or class on consignment or under a conditional sale or on any basis other than a bona fide sale: Provided, that this subsection shall not apply to transactions involving solely the bona fide return of merchandise for ordinary and usual commercial reasons arising after the merchandise has been sold.